

House of Representatives, April 16, 1998. The Committee on Appropriations reported through REP. DYSON, 94th DIST., Chairman of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT SETTING STANDARD WAGE RATES FOR CERTAIN SERVICE WORKERS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 (NEW) (a) As used in this section: (1)
2 "Required employer" means any provider of health
3 care, food, building, property or equipment
4 services or maintenance listed in this subdivision
5 whose rate of reimbursement or compensation is
6 determined by contract or agreement with the state
7 or any of its agents: (A) Nonprofit organizations
8 establishing, expanding or maintaining mental
9 health services pursuant to section 17a-676 of the
10 general statutes; (B) nonprofit organizations
11 offering services for drug-dependent and
12 alcohol-dependent persons pursuant to section
13 17a-676 of the general statutes; (C) persons
14 providing residential and educational services to
15 children in the custody or under the guardianship
16 of the Commissioner of Children and Families
17 pursuant to section 17a-12 of the general
18 statutes; (D) psychiatric clinics, as defined in
19 section 17a-20 of the general statutes; (E) day
20 treatment centers, as defined in section 17a-22 of
21 the general statutes; (F) youth service bureaus
22 established pursuant to subsection (a) of section

23 10-19m of the general statutes; (G) persons
24 receiving grants for programs for the treatment
25 and prevention of child abuse and neglect and for
26 programs for juvenile criminal diversion pursuant
27 to section 17a-49 of the general statutes; (H)
28 community-based service programs, as defined in
29 section 18-101h of the general statutes; (I)
30 persons maintaining programs for children and
31 adults with mental retardation pursuant to section
32 17a-217 of the general statutes; (J)
33 community-based residential facilities for persons
34 with mental retardation established pursuant to
35 section 17a-218 of the general statutes; (K)
36 persons maintaining programs of employment
37 opportunities and day services for adults with
38 mental retardation pursuant to section 17a-226 of
39 the general statutes; (L) private facilities
40 licensed to provide functional, vocational
41 services or providing residential services for
42 severely handicapped persons pursuant to section
43 17a-227 of the general statutes; (M) associations
44 which provide day care and vocational training
45 programs whose rates are paid by the state
46 pursuant to section 17b-245 of the general
47 statutes; (N) nursing homes, rest homes and homes
48 for the aged; (O) building, property, or equipment
49 service companies; (P) management companies
50 providing property management services; and (Q)
51 companies providing food preparation or service,
52 or both;

53 (2) "Health care services" means any
54 preventive, curative or restorative care or
55 supplementary and professional services provided
56 by a required employer;

57 (3) "Person" means one or more individuals,
58 partnerships, associations, corporations, business
59 trusts, legal representatives or organized groups
60 of persons; and

61 (4) "Building, property or equipment service"
62 means any janitorial, cleaning, maintenance or
63 related service.

64 (b) On and after July 1, 1999, required
65 employers shall pay employees who provide health
66 care, food, building, property or equipment
67 services to the state or any of its agents at an
68 hourly rate not less than the standard rate
69 determined by the Labor Commissioner, pursuant to
70 subsection (g) of this section.

71 (c) Any required employer or agent of such
72 employer who violates subsection (b) of this
73 section shall be fined not less than two thousand
74 five hundred dollars and not more than five
75 thousand dollars for each offense. The contracting
76 department of the state that has fined the
77 required employer or agent of such employer shall,
78 not later than two days after taking such action,
79 notify the Labor Commissioner in writing of the
80 name of the employer or agent involved, the
81 violations involved, and steps taken to collect
82 the fine.

83 (d) The Labor Commissioner may make complaint
84 to the proper prosecuting authorities for the
85 violation of any provision of subsection (b) of
86 this section.

87 (e) For the purpose of predetermining the
88 standard rate of covered wages on an hourly basis,
89 the Labor Commissioner shall establish
90 classifications for all hourly nonsupervisory
91 employees which are identical to the applicable
92 occupation codes and titles set forth in the
93 federal Register of Wage Determinations Under the
94 Service Contract Act. The Labor Commissioner shall
95 then determine the standard rate of wages for each
96 classification of hourly nonsupervisory employees
97 which shall be equivalent to the minimum hourly
98 wages set forth in the federal Register of Wage
99 Determinations Under the Service Contract Act,
100 plus a thirty per cent surcharge to cover the cost
101 of health, welfare and retirement plans or, if no
102 such plan is in effect between the employee and
103 the required employer, an amount equal to thirty
104 per cent of the employee's hourly wage shall be
105 paid directly to the employee.

106 (f) Required employers with employees covered
107 by collective bargaining agreements which call for
108 wages and benefits that are reasonably related to
109 the standard rate shall not be economically
110 disadvantaged in the bidding process, provided the
111 collective bargaining agreement was arrived at
112 through arms length negotiations.

113 (g) The Labor Commissioner shall, in
114 accordance with subsection (e) of this section,
115 determine the standard rate of wages for each
116 classification on an hourly basis where any
117 covered services are to be provided, and the agent
118 empowered to let such contract shall contact the

167 per annum; (2) homes, facilities, organizations,
168 programs, institutions or similar entities which
169 receive reimbursement on a cost-based system in
170 accordance with the Title XIX Medicaid program;
171 (3) persons in supported employment positions
172 funded by the Departments of Mental Retardation,
173 Social Services, or Mental Health and Addiction
174 Services, or any other state agency; and (4)
175 contracts or agreements with acute care facilities
176 for the provision of acute care.

177 (j) On receipt of a complaint for nonpayment
178 of the standard rate of wages, the Labor
179 Commissioner or the director of minimum wage and
180 wage enforcement agents of the Labor Department
181 may enter, during usual business hours, the place
182 of business or employment of any required employer
183 to determine compliance with this section and for
184 such purpose may examine payroll and other records
185 and interview employees, call hearings, administer
186 oaths, take testimony under oath and take
187 depositions in the manner provided by sections
188 52-148a to 52-148e, inclusive, of the general
189 statutes. The Labor Commissioner or the director,
190 for such purpose, may issue subpoenas for the
191 attendance of witnesses and the production of
192 books and records. Any required employer, his
193 officer or agent, or the officer or agent of any
194 corporation, firm or partnership who wilfully
195 fails to furnish time and wage records as required
196 by law to the Labor Commissioner, the director of
197 minimum wage or any wage enforcement agent upon
198 request or who refuses to admit the Labor
199 Commissioner, the director or such agent to his
200 place of employment or who hinders or delays the
201 Labor Commissioner, the director or such agent in
202 the performance of his duties in the enforcement
203 of this act shall be fined not less than
204 twenty-five dollars nor more than one hundred
205 dollars, and each day of such failure to furnish
206 time and wage records to the Labor Commissioner,
207 the director or such agent shall constitute a
208 separate offense, and each day of refusal of
209 admittance, of hindering or of delaying the Labor
210 Commissioner, the director or such agent shall
211 constitute a separate offense.

212 (k) Notwithstanding subsection (i) of this
213 section, companies paying the state for the
214 franchise to provide food preparation or food

215 service, or both, for the state or any of its
216 agents shall be required to certify that the wages
217 and benefits paid to employees are not less than
218 the standard rate established in this section.

219 (1) The Labor Commissioner may adopt
220 regulations, in accordance with chapter 54 of the
221 general statutes, to carry out the provisions of
222 this section.

223 STATEMENT OF LEGISLATIVE COMMISSIONERS: Subsection
224 (b) was rewritten to conform with the style of the
225 general statutes. In addition, minor errors in
226 grammar detected in the final proofreading of the
227 bill were corrected.

228 LAB COMMITTEE VOTE: YEA 9 NAY 4 JFS C/R APP
229 APP COMMITTEE VOTE: YEA 32 NAY 18 JFS

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"THE FOLLOWING FISCAL IMPACT STATEMENT AND BILL ANALYSIS ARE PREPARED FOR THE BENEFIT OF MEMBERS OF THE GENERAL ASSEMBLY, SOLELY FOR PURPOSES OF INFORMATION, SUMMARIZATION AND EXPLANATION AND DO NOT REPRESENT THE INTENT OF THE GENERAL ASSEMBLY OR EITHER HOUSE THEREOF FOR ANY PURPOSE."

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FISCAL IMPACT STATEMENT - BILL NUMBER SHB 5327

STATE IMPACT Significant Cost, Revenue Gain,
see explanation below

MUNICIPAL IMPACT None

STATE AGENCY(S) Various

EXPLANATION OF ESTIMATES:

This bill requires certain health care, maintenance, and food service employers to provide their employees with a wage rate not less than the "standard wage rate" as determined by the Labor commissioner. This wage rate is based on the rate schedule set forth by the federal Register of Wage Determinations Under the Service Contract Act, plus a 30% surcharge to cover the cost of health, welfare and retirement plans.

This bill will result in significant costs to the state in FY 2000 through enhanced wages under service provider contracts as specified in this bill. The Departments of Social Services, Mental Retardation, Mental Health and Addiction Services, and Children and Families will realize increased costs for all health care services that are provided under contract with private agencies. Numerous other state agencies will be impacted by this bill due to increased costs in maintenance and food services that are provided by private agencies. The Department of Labor (DOL) will also incur significant additional costs related to the required classification, oversight and enforcement of the standard wages.

HEALTH SERVICES

This bill requires most health services providers under contract with the state to meet the standard wage rate for their employees. Due to the statewide contract process currently in place, the exact number of private provider employees to whom the provisions of this bill applies cannot be readily determined. However, the following departmental contract estimates will provide a scope for potential fiscal impact.

The Department of Mental Retardation (DMR) currently has an estimated 352 contracts with approximately 175 private providers for eligible services as defined in this bill. There are an estimated 5,870 (4,550 full time equivalent - FTE's) employees of these private providers. These contracts result in a total annual cost of approximately \$263 million. Approximately 78% of the total contracted amount is made up of direct care worker salary and fringe benefits.

The Department of Mental Health and Addiction Services currently has approximately 180 contracts with private providers for eligible services as defined in this bill. These private providers employ an estimated 2,800 to 3,000 FTE's. Of these, approximately 2,250 are direct service workers. These private provider contracts result in a total annual cost of approximately \$108 million. Approximately 80% of the total contracted amount is made up of direct care worker salary and fringe benefits.

The Department of Children and Families currently has approximately 440 contracts with private providers for eligible services as defined in this bill. These contracts result in a total annual cost for salary and fringe benefits of approximately \$41 million.

Due to the extensive private provider network in these three agencies detailed above, the Office of Fiscal Analysis is unable at this time to identify those employees whose wages fall below the standard wage rates set by this bill. However, due to the fact that there are approximately 972 applicable contracts and \$332 million in provider salary and fringe costs in these agencies, the impact of this bill will be significant. For each five percent increase in salary and benefits under these contracts that results from this bill, the state will incur a cost of approximately \$16.5 million.

It is unclear the extent of impact that this bill will have on the Department of Social Services (DSS). Department programs in which potential significant costs may result include: 1)home health care; 2)HUSKY program contractors; 3)Medicaid Managed Care; 4)child care services; 5)Medicaid funded Intermediate Care Facilities for the Mentally Retarded (ICF/MR) as serviced by private providers; and 6) various social and community programs. The home health care program expenditures are projected to be \$161.4 in FY99, the non-acute care portion of the Medicaid Managed Care program to which this bill may apply is estimated be \$210 million in FY99 and the private ICF/MR contracts expenditures are estimated to be \$47 million in FY99. The monetary value of the services of contracts that may be impacted by this bill cannot be determined at this time. Therefore potential costs to DSS as a result of this bill likewise cannot be determined.

Although this bill exempts employers who receive a cost-based reimbursement under the Medicaid program, a definition of such cost-based reimbursement is not included in either current statute or the bill. Therefore, it is not clear whether the provisions of this bill would apply to employees of nursing homes, which are reimbursed under the Medicaid system.

It should be noted that partial federal reimbursement under the Medicaid program will result for those increased contract expenditures eligible for federal financial participation. Examples of such reimbursable expenditures include Medicaid Managed Care contracts, a portion of home health expenditures and those DMR contract expenditures qualified under Medicaid.

MAINTENANCE AND FOOD SERVICE

The establishment of standard wage rates for: 1) Building, property, or equipment service companies; 2) Property management services companies; and 3) Food preparation and food service companies would result in significant additional costs to a large number of State agencies, especially to those agencies that occupy or operate many buildings. In particular, the use of contracted janitorial and building maintenance services is widespread among State agencies.

There are over 600 occupied State buildings under the care and control of over 50 State agencies. The Department of Public Works, the University of Connecticut, Connecticut State University, the Judicial Department, and the Department of Transportation operate a large number of these buildings. An estimate of the total amount of State expenditures for contracted building and food services is not available at this time. Also, the cost differential of the salary and fringe benefits between contracted workers and the standard wage rates to be established by the Department of Labor cannot be determined at this time.

DEPARTMENT OF LABOR

There will be a cost to DOL associated with the compliance process as a result of the provisions of this bill. It is anticipated that a substantial complaint caseload will result. Therefore, the department may require up to 6 additional wage enforcement agents, which would result in an annual cost of approximately \$270,000. The department will also incur additional indeterminate administrative costs attributed to the classification and standard wage rate setting process.

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OLR BILL ANALYSIS

sHB 5327

AN ACT SETTING STANDARD WAGE RATES FOR CERTAIN SERVICE WORKERS

SUMMARY: Beginning July 1, 1999, this bill requires certain employers holding contracts with the state or its agents to provide health care, building, or food services to pay their employees at rates not less than standard rates determined by the labor commissioner. The requirement generally does not apply to agreements involving less than \$50,000 a year, nor to those involving acute care facilities, organizations receiving reimbursement for Title XIX Medicaid costs, and people or groups in supported employment positions. But it does apply to companies paying the state a franchise fee to provide food services, and to home health aides at Medicare-certified facilities where

medical services are state-funded.

The bill specifies the types of employers subject to the requirement, provides a method for the commissioner to set standard wage rates, and prescribes how contracting agents inform potential bidders of standard wage rates to be met in preparing a contract proposal. It protects companies with collective bargaining agreements containing wage rates reasonably similar to the standard rate from being disadvantaged in the bidding process, provided arm's length negotiations led to the agreement.

The bill provides civil penalties for violations of the wage requirement. It also sets record keeping and information obligations for employers, civil and criminal penalties for violations, and Labor Department procedures for investigations. It empowers the labor commissioner to adopt regulations to administer the requirement.

EFFECTIVE DATE: October 1, 1998

FURTHER EXPLANATION

Employers Subject to Requirement

The bill's requirement applies to 16 categories of employers in contractual relationships with the state or its agents:

1. nonprofit organizations establishing, expanding, or maintaining mental health services;
2. nonprofit organizations serving drug- or alcohol-dependent people;
3. people or organizations providing housing or education to children in the care of the commissioner of children and families;
4. psychiatric clinics and day treatment centers treating such children;
5. youth service bureaus;
6. grant recipients operating programs to treat

and prevent child abuse and neglect, and juvenile crime diversion programs;

7. community-based service programs offering housing, transportation, and other services to criminal offenders and their families, people charged with crime or diverted from the criminal process, and crime victims ;
8. programs for children and adults with mental retardation;
9. community-based residential facilities for people with mental retardation;
10. employment and day services for adults with mental retardation;
11. private facilities licensed to provide functional, vocational, or residential services to severely handicapped people;
12. state-supported day care and vocational training services;
13. nursing homes, rest homes, and homes for the aged;
14. building, property, or equipment service companies (for example, providing janitorial, cleaning, or maintenance services);
15. management companies providing management services; and
16. companies providing food preparation or service.

Standard Wage Rates

The labor commissioner must establish classifications for all hourly nonsupervisory employees identical to the applicable codes and titles in the Federal Register of Wage Determinations Under the Service Contract Act. The commissioner must then determine standard wage rates by adding a 30% surcharge to the federal minimum hourly wages for each classification listed. The surcharge represents the cost of health, welfare, and

retirement plans or, absent such plans, a supplement payable directly to the employee.

Any state agency letting a contract must obtain the applicable standard wage rates from the commissioner at least 10 days before the contract is advertised and include in the proposed contract the hourly standard wage rate for each job classification. The standard wage rate becomes the minimum rate for that classification.

Violations

The bill provides for fines of between \$2,500 and \$5,000 on covered employers or their agents who violate the requirement, to be levied by the state contracting agency. The agency must inform the labor commissioner in writing of each violator's name, the violations involved, and the steps taken to collect the required wages.

The labor commissioner may complain to proper prosecuting authorities for any violation of the requirement.

Record Keeping

In addition to keeping records of each employee's wages and hours worked in accordance with the labor commissioner's procedures, each covered employer must submit, upon request from the contracting agent, a certified payroll including a statement that the wage paid to each employee is not less than the standard rate. Filing a false certified payroll is a class D felony carrying a fine of up to \$5,000 or five years imprisonment, or both. Each payroll must state that the employer is aware of the penalty. Such certified payrolls are subject to public inspection and copying in accordance with law. If not inconsistent with the bill's provisions, existing laws on labor commissioner investigations and employer payroll records apply. Similarly, statutory penalties for paying less than minimum or standard wages and for failure to keep proper records also apply.

Enforcement

The labor commissioner and Labor Department agents may

investigate complaints of nonpayment of the standard wage rate. Investigations may involve examining covered employer records, interviewing employees, holding hearings, administering oaths, taking testimony under oath, taking depositions, and issuing subpoenas. Failure to produce records or willful hindrance of an investigation is punishable by fines of between \$25 and \$100 for each act. Each day of noncooperation constitutes a separate offense.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Substitute Change of Reference
Yea 9 Nay 4

Appropriations Committee

Joint Favorable Substitute
Yea 32 Nay 18